



October 10, 2007

Committee on Criminal Justice
Wisconsin State Assembly
State Capitol
Madison, Wisconsin 53702

Dear Members of the Committee on Criminal Justice:

Target Corporation would like to express our support for AB 340 which enhances penalties for those participating in an organized retail crime ring. Organized Retail Crime (ORC) is clearly the most pressing security problem facing our industry.

ORC is a problem that is both growing and evolving, due, in large part, to the proliferation of information technologies, most notably, the internet. Known as internet or e-fencing, criminals sell stolen or fraudulently acquired merchandise through on-line auctions that function as virtual pawnshops in a 24/7 marketplace. ORC now accounts for up to \$30 billion in losses at the store level annually according to the Federal Bureau of Investigation's (FBI) interstate task force. These losses due to ORC account for \$31.5 million in loss sales tax revenue in the state of Wisconsin according to estimates by the Food Marketing Institute.

More importantly and most disturbing is the fact that this type of criminal activity can put consumers' health and safety at risk. Professional shoplifting rings frequently steal consumable products, such as over-the-counter medications and infant formula. Pilfered products may not be kept under ideal conditions and often times these shoplifting rings repackage or change the labels to falsely extend the product's expiration date.

We support AB 340 because enhancing the felony level for ORC activities is a strong deterrent against crimes of this nature. By improving the record-keeping requirements for flea markets we can prevent businesses from acting as clearinghouses for stolen merchandise. Please feel free to contact me with any questions at (612) 696-6866.

Sincerely,

Nate Garvis
Vice President, Government Affairs



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October 16th, 2007
11 AM 225 Northwest
Testimony to Criminal Justice Committee

Good morning Chairman Kleefisch and members of the committee. My name is Michelle Kussow and I am here today representing the Wisconsin Grocers Association. The WGA is a statewide trade association representing more than 1,000 independent grocers, retail grocery chain stores, warehouses and distributors, convenience stores, food brokers, suppliers and wholesalers. I am here today in support of Assembly Bill 340 related to organized retail crime.

Before I begin, I want to thank Representative Kleefisch and Dan Lindstedt from his office for their leadership on this issue. We approached Rep. Kleefisch earlier this session describing the problems with organized retail crime in Wisconsin and the legislation before you today is the proposed solution to this problem.

Organized Retail Crime is an offense that involves two or more persons who are associated for the purpose of shoplifting merchandise within a professional crime ring with the intent to sell in flea markets, pawn shops, on the internet, or in any illegitimate setting. Supermarkets, mass merchandisers, pharmacies, and convenience stores are all targeted by these organized crime groups who look for household items that have a high monetary value and can be easily concealed—like, baby formula, razor blades and cosmetics.

When we talk about ORC we are not referring to individuals or groups that come into a store and steal individual products for personal use. We are referring to professional crime rings that steal pallets of product from trucks and loading docks, wipe out entire shelves of products and load up shopping carts and make their way out of the store. They then go back to their headquarters where they have been warehousing thousands of dollars of these products that they sell online, at flea markets and often times back to unsuspecting retailers.

It is estimated that 30 billion worth of merchandise in the United States is lost to organized retail crime a year. In Wisconsin over \$631 million worth of merchandise is lost, making our state the 15th highest targeted state for organized retail crime.

Not only is ORC costly for the targeted businesses, but this type of crime places consumer's health and safety at risk. For example, consumers are potentially at risk when professional theft rings steal consumable products, such as OTC drug products and infant formula. Pilfered products such as these kinds may not be kept under ideal or required storage conditions which can threaten the product's integrity. And often times, these theft rings will repackage and change the labels on stolen products to falsely extend the product's expiration date or to disguise the fact that the merchandise has been stolen.

Numerous states have already enacted retail crime legislation, while several others have legislation pending. I have passed out a chart that provides information on the legislation and their status in these other states. With no laws on the book concerning Organized Retail Crime in Wisconsin, we have become a safe haven for these groups.

Assembly Bill 340 will prevent organized crime rings from singling out Wisconsin as an easy target for these thefts. AB 340 does the following:

- Lowers the felony threshold for retail theft from \$2,500 to \$500. Under existing law, the total value of the merchandise stolen needed to reach \$2,500 before the crime could be considered a Class I felony.
- Increases the penalty for retail theft of merchandise valued at less than \$500 to a Class I felony if the thief steals with intent to resell. This provision essentially makes it a felony to steal anything with intent to resell.
- Allows DA's to prosecute organized retail theft cases across county lines.
- Requires proof of ownership for the following items sold at flea markets: baby food; cosmetics; devices; drugs; infant formula; batteries; and razor blades.

Organized retail crime negatively impacts both businesses and consumers in Wisconsin. It increases prices on merchandise purchased by consumers and insurance premiums purchased by businesses. It jeopardizes the safety of consumers by removing protections on high risk products. And with an estimated \$631 million dollars of merchandise stolen a year by Organized Retail Crime groups, Wisconsin loses more than \$31.5 million in sales tax revenue.

Your support of Assembly Bill 340 will help to protect both Wisconsin businesses and consumers.

ORGANIZED RETAIL CRIME

What Is ORC?

Organized retail crime (ORC) is a growing problem throughout the United States affecting a wide range of retail establishments including supermarkets, chain drug stores, independent pharmacies, mass merchandisers, and convenience stores among others. It has become the most pressing security problem confronting retailers and suppliers, and now accounts for as much as \$30 billion in losses at store level annually according to the Federal Bureau of Investigation's (FBI) interstate theft task force (Washington Post – August 4, 2001).

ORC is separate and distinct from petty shoplifting in that it involves professional theft rings that move quickly from community to community and across state lines to pilfer large amounts of merchandise that is fenced and sold back into the marketplace. Petty shoplifting, as defined, is limited to items stolen for personal use or consumption.

Targeted Products

ORC gangs typically target everyday household commodities and consumer items that can be easily sold through fencing operations, flea markets, pawn shops, swap meets and shady store-front operations. ORC gangs are also using Internet Auction Websites as a venue to sell stolen goods. Items that are in high demand by these professional theft rings include over-the-counter (OTC) drug products, such as analgesics and cough and cold medications, razor blades, camera film, batteries, videos, DVDs, CDs, smoking cessation products and infant formula. High end items including designer clothes, furs and consumer electronics are also popular.

Consumer Health and Safety Risks

Consumers are at risk when ORC gangs steal consumable products especially OTC drug items and infant formula. In many cases after the merchandise has been stolen, the products are not kept under ideal or required storage conditions which can threaten the integrity of the product. For example, extreme heat or cold can affect the nutrient content or physical appearance of infant formula.

When products are near the end of their expiration date, ORC middlemen may change the expiration date, lot numbers and labels to falsely extend the shelf-life of the product and to disguise the fact that the merchandise has been stolen. In addition, cough and cold products are popular with ORC rings because these medications can be sold to clandestine labs for the purpose of manufacturing methamphetamine.

Economic Impact on Consumers

Retail theft results in consumers having to pay higher prices for the products they purchase as retail establishments attempt to cover their losses. Higher prices adversely affect all consumers especially the most needy in America, such as the elderly and families that depend upon food stamps and the WIC program to augment their limited budgets.

Moreover, consumers are also being inconvenienced by this type of criminal activity. Because theft has become so rampant in certain product categories, for example infant formula, a number of major retail companies are taking the products off the shelves and placing them behind the counter or under lock and key. In some cases, products are simply unavailable due to high pilferage rates.

Problem: Limited Existing Enforcement

Presently, there is no federal law that specifically addresses ORC. The federal statute most frequently utilized in dealing with professional theft rings is the Interstate Transportation of Stolen Property Act, but this law is limited to situations involving the transporting of stolen goods. Thus, when professional thieves are apprehended for stealing large quantities of merchandise from a retail store, no federal statute is available. This means the case must be handled under a state shoplifting law that usually treats such crimes as a misdemeanor. As a result, rarely are shoplifting cases prosecuted and when they are individuals who are convicted usually see limited jail time or are placed on probation.

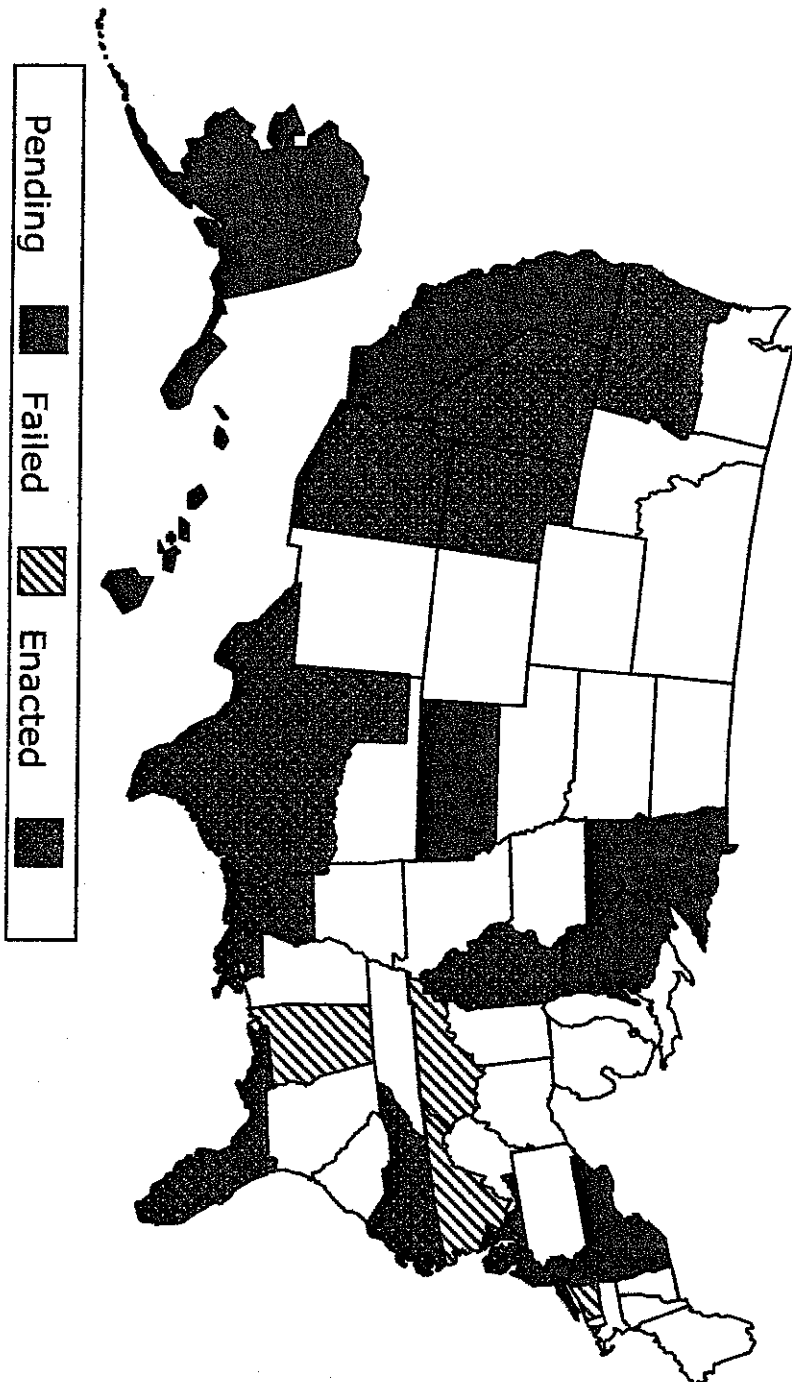
Solution

The retail community and its suppliers believe the time has come to make ORC a federal felony in an effort to deter this type of criminal activity. In fact, because of the magnitude of this problem, ORC is now the second highest domestic priority for the Federal Bureau of Investigation (FBI) given its concerns that ORC activity may be helping to fund terrorism.

A coalition of national organizations representing retailers and suppliers as well as individual companies is developing draft legislation to make ORC a federal offense. In brief, the coalition's draft bill would amend several sections of Title 18 of the United States Criminal Code, to address various matters associated with ORC, such as the fraudulent use of UPC codes, interstate transportation of stolen goods and the sale of stolen merchandise from an Internet auction website. The coalition will urge Congress to actively consider this important legislative initiative.

2007 State Organized Retail Crime Legislation

September 11, 2007





**Testimony on Behalf of
Walgreen Co.
Concerning Assembly Bill 340
Organized Retail Crime**

**Presented to the
WI Assembly Committee on Criminal Justice
Madison, WI
October 16, 2007**

**Mr. Frank Muscato
Organized Retail Crime Investigations Supervisor
Walgreen Co.
Deerfield, Illinois**

Chairman Kleefisch and members of the Committee on Criminal Justice:

I would like to thank the Committee for allowing the Walgreen Co. ("Walgreens") to present comments in support of Assembly Bill 340, sponsored by Chairman Kleefisch. Today my testimony will focus on explaining what, precisely, is meant by the term Organized Retail Crime or "ORC" as commonly known in the loss prevention and law enforcement community; as well as in providing some insight regarding the scope of this problem and the impact it has on the economy in Wisconsin and across the United States.

What is Organized Retail Crime or "ORC"?

Many or perhaps most people when thinking of retail theft imagine a stereotypical shoplifter. Shoplifters are not who we are talking about when we reference ORC. Shoplifters are persons who steal items for their own personal use. They take food, clothing, etc., and are typically only opportunistic shoplifters: e.g. juveniles taking candy, the newest style of clothes, prerecorded music, a little food to eat, and so on. These persons are the basic shoplifters who have been around as long as items have been for sale and, though a nuisance and cost to retailers, not a major crime problem and definitely not ORC.

Unfortunately, we now see professional thieves or "boosters" operating in well-organized groups often carrying large bags or wearing special clothing lined with foil or other anti-detection devices so that they can bypass the sensors of the security alarms. These groups are bold, organized, and networked. They operate nationwide, and some even operate worldwide. A professional retail thief steals large numbers of the same product and takes orders on items to be stolen. Professional retail thieves will travel from city-to-city, state-to-state, and internationally, to commit large-scale retail theft.

As America's largest retail pharmacy, we understand the importance of the proper handling of pharmaceuticals, over-the-counter medications and other specific products. For example, infant formula has strict temperature controls, where failing to control, may result in the spoilage of the formula. In many cases, stolen over-the-counter medications and baby formula are exposed to extreme temperatures that could affect the safety of the product. Our loss prevention professionals have witnessed first hand this type of stolen product being stored at extreme temperatures by thieves. Once items are stolen, they are often taken immediately to a buyer or "fence." A fence will typically purchase items for about one quarter of the listed retail price and then move the items to a clandestine warehouse for repackaging or to a flea market or swap meet.

Scope of the Problem and Economic Impact

As stated earlier in my comments, ORC is a problem on the local, state, national, and international level. ORC thieves and those that support ORC by fencing, laundering, and selling goods that are stolen by organized rings of thieves cost U.S. taxpayers billions of dollars each year. Using our company as just one example, Walgreens—where we operate almost 200 pharmacies in Wisconsin—for the fiscal year ending Aug. 31st, reported combined self-service sales of \$639 million in Wisconsin. Using the FBI's 4% "shrink" rule, our estimated losses to theft in Wisconsin for this same timeframe were some \$26.5 million. Calculate that figure by the sales tax rate of

5.5% here in Dane County and it is amazing to see that the citizens of the state of Wisconsin were robbed of approximately **\$1.4 million** in lost sales tax revenue from Walgreens over just these last 12 months. Extrapolate that over the tens of thousands of retailers operating in Wisconsin and one can begin to see the scope of the economic impact and loss. And this is only the loss related to sales tax revenue. Not considered in that calculation are the losses associated with jobs that are not available because of lost sales, state programs that go under or unfunded due to lost tax revenue, or individuals injured or made ill who received falsely re-labeled or expired OTC drugs or infant formula.

Concerning the flea market language in AB 340, I want to emphasize that this legislation will not, and is not, intended to shut down legitimate vendors—but rather only those vendors selling stolen merchandise and products that pose a health threat to consumers.

Conclusion

Consumers and taxpayers will benefit from AB 340. As more and more states pass ORC legislation, we do not want Wisconsin to become a dumping ground for stolen and dangerous products. I would hate to see that happen and hope you share my opinion. Thank you for allowing me the opportunity to comment today. Should you have any questions specific to ORC or AB 340 I will be happy to discuss the issue further at this time.